



16 APR 2007

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In re Application of  
ROSEWICZ (Deceased)  
Application No.: 10/593,533  
PCT No.: PCT/EP05/03161  
Int. Filing Date: 24 March 2005  
Priority Date: 26 March 2004  
Attorney Docket no.: 833.1005  
For: USES OF GALECTIN-2

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DECISION ON  
REQUEST  
UNDER 37 CFR 1.42

This is a decision on applicant's submission filed in the United States Patent and Trademark Office (USPTO) on 19 September 2006 and treated as a request under 37 CFR 1.42.

### **BACKGROUND**

On 19 September 2006, applicant filed a transmittal letter requesting entry into the U.S. national stage for international application PCT/EP05/03161, along with an executed declaration to satisfy the requirements of 35 U.S.C. 371 that an oath or declaration of the inventors be furnished.

The declaration which was signed by inventors Axel Dignass and Andreas Sturm and by the heir for deceased inventor Stefan Rosewicz including their respective country of citizenship, residency and mailing address.

### **DISCUSSION**

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative (heir) of a deceased inventor, the oath or declaration must state that the person is a legal representative (heir) and indicate the citizenship, residency and mailing address of the legal representative (heir). The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration is unacceptable for several reasons. First, the declaration does not state

the country of citizenship, former residency and mailing address for *both* the deceased inventor and the heir(s), for compliance with 37 CFR 1.497(b)(2). The new declaration must provide the citizenship, residency and mailing address of the heir(s) and the citizenship, last known residency and mailing address of the deceased inventor.

Second, it is unclear whether Ehrengard Rosewicz is the only heir of deceased inventor Stefan Rosewicz. (See MPEP §409.01(a)). That is, there may be other heirs who are required to also sign the declaration. A new declaration must indicate that Ehrengard Rosewicz is the only heir for the deceased inventor to accept the application under 37 CFR 1.42. Alternatively, applicants' attorney may file a statement certifying that Ehrengard Rosewicz is the only heir.

For the reasons stated above, a new declaration is required in compliance with 37 CFR 1.497 and 1.64. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

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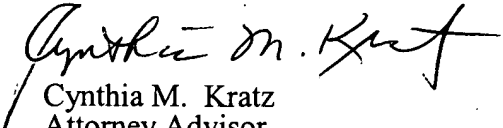
### CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

The declaration by the legal representative for deceased inventor Stefan Rosewicz submitted on 19 September 2006 cannot be accepted as a proper declaration under 37 CFR 1.497(a) and (b) at this time.

Applicants are required to submit a new declaration executed by the legal representative for deceased inventor Stefan Rosewicz **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

  
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